

### REMARKS

Claims 1-4, 6, 14, 17 and 19 have been amended.

Claims 21 and 22 have been added.

Claims 1-22 are pending.

### **Allowable Subject Matter**

The Cover Sheet of the Office Action states that Claims 10-16 are allowed. The Detailed Action indicated that Claims 10-16 would be allowable over the prior art. Applicant submits that Claims 10-16 are allowed and thanks Examiner for a thorough examination.

### **Claim Objections**

The Office Action objected to Claim 2 because “pipes” should be —inlet pipes—. The Office Action objected to Claim 3 because “the pipes” should be — the inlet pipes—. The Office Action objected to Claim 14 because “basis” should be —basin—. The Office Action objected to Claim 17 because “the connected” should be —be connected—. Applicant agrees with all of these objections and has amended the Claims appropriately.

## **Claim Rejections**

### 35 U.S.C. §112

The Office Action rejected Claims 17-20 under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In Claim 17, “the water quality inlet orifice” lacks clear antecedent basis. Applicant has amended Claim 17, among other things, to recite proper antecedent basis for “the water quality inlet orifice”. In Claim 19, “the pond” lacks clear antecedent basis. Applicant has amended Claim 19, among other things, to recite proper antecedent basis for “the pond”. Applicant submits that Claims 18 and 20 are no longer indefinite.

### 35 U.S.C. §102

The Office Action rejected Claims 1-5 and 7-9 under 35 U.S.C. 102(b) as being anticipated by Plowman et al (US 5,458,436). Applicant submits that while the Office Action has pointed out some common elements, the element that the Office Action recites as an end cap 16 is not an end cap at all but quite clearly “geo-textile fabric 16” (see Col. 4, lin 64). In addition, the structure as recited in Plowman et al is a drainage system that clearly lacks the proper structure for a detention pond. As such, Applicant has amended Claims 1-4 in order to more clearly recite the novelty and non-obviousness of the claimed invention for use in a detention pond. Applicant believes that Examiner will appreciate the unique structure of the apparatus for use in a detention pond that is clearly impossible in Plowman’s apparatus. Applicant has also added Claim 22 to further recite the novel structure. Applicant submits that Claims 1-4 are now allowable. In addition, Claims 5 and 7-9 depend directly or indirectly from Claims 1-4, and are also now allowable.

35 U.S.C. §103

The Office Action rejected Claim 6 under 35 U.S.C. 103(a) as being unpatentable over Plowman et al in view of Babin (US 3,901, 448). Applicant refers to the arguments above with respect to Plowman. Although Applicant has no specific comment about Babin, Applicant has amended Claim 6 to recite the clear novelty for use in a detention pond, which is taught in neither in Plowman nor Babin. Claim 6 now recites clear structure to a detention pond apparatus.

The Office Action rejected Claims 17, 18 and 20 under 35 U.S.C. 103(a) as being unpatentable over Plowman et al in view of Steelquist (US 1,231,308). Applicant refers to the arguments against Plowman as above. With respect to Steelquist, Applicant points out that a sump cannot properly be equated with a detention pond. A sump is actively pumped, while with a detention pond, it is crucial that a passive control structure with a sized water quality orifice, as in Applicant's claimed invention, be provided in order to maintain deliberately slow drainage into waterways so that pollutants, sediment and other undesirable by-products from construction, subdivisions and the like are prevented from entering the waterways. These qualities are discussed in the specification. The structure that Applicant has claimed results in the desired qualities that are simply not possible in a system with a pump and in a system that is designed as a irrigation system such as in Steelquist. Such a system teaches away from the passive water quality device as in Applicant's claimed invention. As such, the use of Steelquist as a basis of an obviousness rejection is improper. Applicant has amended Claim 17 in order to more clearly recite the kit as a water quality kit for a detention pond.

The Office Action rejected Claim 19 under 35 U.S.C. 103(a) as being unpatentable over Plowman et al, as modified by Steelquist, as applied to Claim 17, and in further view of Babin. Applicant has discussed the problems with the proposed combination in the Office

Action. Applicant has further amended Claim 19 with respect to the 35 U.S.C. 112 rejection above, which in turn helps to more clearly recite the novelty and non-obviousness of the claimed kit.

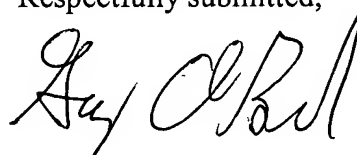
Claim 21 has been added to further recite the novelty and non-obviousness of the kit.

### **New Claims**

Claims 21 and 22 have been added. Support for Claims 21 and 22 can be found in the specification.

If Examiner has any questions regarding this document, Applicant asks that Examiner contact the undersigned immediately by telephone.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Greg O'Bradovich", written over a horizontal line.

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